

Third Party Debt Collectors: Know Your Rights



The Attorney General's Office receives numerous complaints and inquiries about third party debt collectors.

There is much confusion about what collectors can and cannot do. Let's clear up some of the confusion.

Many consumers fear that they can lose their homesteads due to an outstanding debt. In Texas, generally a designated homestead is protected and cannot be foreclosed upon to pay a debt. Homesteads can be subject to foreclosure for delinquent property taxes, unpaid IRS debts, or defaults in your mortgage or home equity loan. You should consult an attorney to determine whether your home or homestead is in jeopardy.

Wages are generally protected, but can be garnished to pay court-ordered child support, spousal maintenance, student loans in default and back taxes. Bank accounts, savings accounts and other general investment accounts or brokerage accounts may be garnished.

Although a collector may contact others to try and locate you, he or

she may not discuss your account or debt status with anyone else but you or your spouse. He or she must give his or her name, but not the name of the agency unless they are specifically asked for it.

A collection agency may contact your employer, but only for specific reasons, which include verification of your employment, verification of your business location and to determine if you have medical insurance to cover a medical bill.

We also receive inquiries regarding the obligation to pay old debts. If you never paid off an old debt, that does not mean it is not valid; you are obligated to pay it even if it has been several years since you were contacted by a collection agency or the business you owe the debt to.

Many consumers are under the impression that after a certain number of years, they are no longer responsible for an unpaid debt.

Under Chapter 16.004 of the Texas Civil Practice & Remedies Code, Four-Year Limitations Period, the statute of limitations for filing suit to collect a debt is no later than four years after the cause of action accrues. An example of when the cause of action accrues is the date on which the debt is declared to be in default.

Under the case law related to this statute, debt means any outstanding liability payable in cash. In addition to consumer loans or credit card debt, this can mean a tax liability, damages related to land sale fraud, overpayment or underpayment of royalties or wages, money allegedly owed under an insurance policy, and money arising from a breach of contract.

The fact that a creditor is barred from collecting a debt through a lawsuit due to the statute of limitations does not mean the debt is erased - the debt remains in effect, and the creditor can still use other means to try to collect it. And the debt will remain on your credit report.

Also, most of the cases cited involve unsecured debt, where the suit would result in a personal judgment against the debtor. There are different rules for debts secured by property, such as mortgages. You may wish to consult with a private attorney if you are unsure which type of debt is involved or what options are available in resolving it.

If you are being harassed by an abusive debt collection agency, you can contact my office and file a complaint. You can also contact the Federal Trade Commission to file a complaint and for additional information.

POINTS TO REMEMBER

Third Party Debt Collectors

To obtain a copy of your credit report:

Equifax
P.O. Box 740241
Atlanta, GA 30374-0241
(800) 685-1111

Experian
P.O. Box 2104
Allen, TX 75013-2104
(888) 397-3742

Trans Union
P.O. Box 390
Springfield, PA 19064
(800) 916-8800

For more facts on debt collectors:

American Collectors Association of Texas
6505 Airport Blvd, Ste 100
Austin, TX 78752-3614
(800) 957-3328
www.texascollectors.com

Office of the Attorney General
Consumer Protection Hotline
(800) 621-0508

Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
(877) 382-4357
www.ftc.gov



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Information on this and other topics is available on the Attorney General's Web site at www.oag.state.tx.us.